

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN MACK COLE**, on February 17, 1999 at
10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Keri Burkhardt, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 457, 2/11/1999; SB 455, SB
405, 2/12/1999
Executive Action: None.

HEARING ON SB 405

Sponsor: SEN. VICKI COCCHIARELLA, SD 32, MISSOULA

Proponents: Lars Ericson, Carpenters' Union for the
Maintenance Carpenters in the University System
Jerry Driscoll, Montana Buiding Trades Council
Darrell Holzer, State AFL/CIO
Tom Schneider, Montana Public Employees'
Association

Opponents: **Glen Leavitt, Director of Benefits, Montana University System**
 Mike O'Connor, Executive Director, Public Employees' Retirement System

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA, SD 32, MISSOULA, explained in the University System there is inner unit benefits committee that make decisions about what will be in a health insurance plan for the University employees. That plan is different than the state plan. There has been a lot of unfairness. She was part of the legislation passed a few sessions ago to allow the University faculty to opt out of their retirement session. When it comes to bargaining with a board of regents, the sessions are very tedious and do not produce the kinds of benefits or pay increases the hard working front-line staff need. The University System, in its bargaining process, doesn't always listen and doesn't always provide what the staff might want to ask for. That is their job, but it is not always fair. She is asking that the people in collective bargaining units be allowed to bargain outside of the University System for health insurance and pension plans. She did not sign the Fiscal Note because they disagree with the numbers. They got actual numbers from the University System about how many bargaining units there are and how many people are involved. They are not sure, concerning the Fiscal Note, where the number of 45 collective bargaining units came from, but it is totally erroneous. This bill offers a fair approach and opportunity for those people to have more control about what is part of their pay and what is part of their benefit package. The opponents may try to say the provision for the retirement aspect of this bill is unconstitutional. She spoke with Greg Petesch, Legislative Staff, and he said it is not unconstitutional.

{Tape : 1; Side : A; Approx. Time Counter : 10.11}

Proponents' Testimony:

Lars Ericson, Carpenters' Union for the Maintenance Carpenters in the University System, said they asked **SEN. COCCHIARELLA** to carry this bill out of frustration of the level of benefits provided by the state. The intent is not to adversely affect the state plans. The intent in structuring the bill is to only allow individuals who have existing Taft Hartley plans to be allowed the ability to negotiate out of the state plans and into their individual Taft Hartley plans. Taft Hartley is a federal law that regulates all benefits for the unions. They are co-managed by equal representation by labor and management. The University

System does not support this bill. The Fiscal Note numbers are not accurate. He obtained the 1997 and 1998 numbers, which will be fairly accurate **EXHIBIT(sts39a01)**. The Fiscal Note says there are 45 collective bargaining units, but there are only 20 bargaining units represented by 13 unions. The Fiscal Note says that 26 have union pension plans, but his information shows 6 unions with Taft Hartley plans. The Fiscal Note shows that if a large number of employees opted out it would be a hardship on the University health plan. He said that the out of pocket costs for university employees, specifically the carpenters, excluding the co-pay, is over a hundred dollars a month more than their union health insurance plans. The union plans have a higher level of benefits than the University plan. The Fiscal Note says that university employees leaving the Public Employees' Retirement System (PERS) would affect the unfunded liability of the plan. There are approximately 2,841 employees covered under the University System, out of a total of about 6,000 including retirees. Of that number 347 employees, or 12 percent, have collectively bargained plans that are Taft Hartley plans. The Montana Federation of Teachers are a fairly large unit, but they are already allowed out of the system. This bill specifically addresses the construction crafts, although it will allow anyone to negotiate. They understand that there is an unfunded liability with the PERS and expect to pay their share of that, should they be allowed to negotiate out. They do not want to put PERS at a disadvantage. The employees are behind on wages and benefits. Those that have better plans should be allowed to negotiate. For those few crafts that have alternate plans that are better would like the ability to negotiate out, as has been done with other units.

Jerry Driscoll, Montana Buiding Trades Council, said the bill would simply allow people who are already covered by alternative health and pension plans to negotiate with the university, in order to come to an agreement on better plans. He explained his personal experience with Employees Income Retirement System Security Act (EIRSSA) plans and PERS. He said multi-employer EIRSSA plans are way better than PERS and are jointly administered between employers and employees, with a third party administrator that does the book work. He said he hopes that the committee will allow the people to at least talk to the university, so they can show them the great benefit they can get in the health insurance plans.

Darrell Holzer, State AFL/CIO, said this legislation only allows the people to sit down and negotiate to see if they can come to a compromise. It will allow more Montana citizens to have access to better benefits. He urged the committee's support.

Tom Schneider, Montana Public Employees' Association, said they have approximately 1500 members in the University System. He supports the first section of the bill, which deals with health insurance. They have had serious health insurance problems over the last 2 years and they had a coalition of all the unions to put together **HB 421**, which is a revamp of the committee that deals with health insurance. That was a negotiated agreement and has passed the House and is currently in the Senate. The problem is there is a real diversity in the University System between faculty and staff. The reason is the difference in wages. The faculty is more concerned with what kind of benefits are provided rather than the cost. On the other hand, many staff members can not afford the same level of benefits, even though they like them, so they have to accept a plan that is putting them into destitution, in some cases. Currently they do not have a health insurance plan because they do not have a reason to, but they could provide a health insurance plan and could negotiate that. Over the last 2 years they could have provided a plan that would have been better than the one they had to deal with. One concern with the coalition is some of the Craft plans do not cover retirees. State law requires any public plan to cover retirees, but union health trusts are not state plans or public plans, so they do not have to cover the retirees. They can take care of this problem by covering retirees and any plan they offered would do that. He strongly opposes the section on pensions. He opposes anything that does not allow individual choice on pensions. This could injure workers' pensions for people who had to be moved to another plan from PERS, because the larger portion of their group controlled the bargaining unit. The people who chose PERS as their retirement system would be vested at that point. Otherwise, the people would be moved into another plan. His comment on the TIAA-CREF bill last session was that if they made it a true optional plan and there is an individual right to either go to the Teachers' Insurance and Annuities Association - Insurance Retirement Equities Fund (TIAA-CREF) or stay in PERS he could support it. This works very well for a person who is a true craft, but there are a lot of people who cover major groups of people, such as the laborers and teamsters, who this does not necessarily work well for. If they choose to go they could injure some peoples' retirement benefits, and he cannot support that. He doesn't support that section of the bill. TIAA-CREF is an university plan, not an union pension plan. TIAA-CREF is available to everybody on the campus. It should be optional. It is mandatory for new employees after 2 years.

Opponents' Testimony:

Glen Leavitt, Director of Benefits, Montana University System, said he is an opponent of this bill for 3 reasons. He explained

that they have **HB 421** working its way through the system and makes bargaining of benefits not a mandatory subject to bargaining. This bill is contrary to that concept. Labor supports **HB 421** and is a result of the negotiations between the University System and a coalition of virtually all of the labor unions that represent employees in the University System. **House bill 421** gives the unions guaranteed representation of one half the makeup of the Inner Units Benefit Committee. **House bill 405** opens up the opportunity for a large amount of adverse selection. If it's only a couple of unions of carpenters that opted out, it would have little effect on their plan, but any of the unions could form their own health care plan and take 1500 employees out. If that happens the whole University plan would fall apart because they would be left with those employees who are higher risk. There is also the issue of the retirees. In the long run that would be very disadvantageous to the whole system. They also have **HB 79**, which has passed the House and is on its way to the Senate. It gives classified employee staff the option to go to the optional retirement program, if they are with the University System, or a defined contribution plan that will be administered by PERS. It also gives the PERS option to all other state employees. **House Bill 79** gives a lot of choice to employees. **House Bill 405** takes employees totally out of that system. He said choice is good, but too much choice is not necessarily good.

{Tape : 1; Side : A; Approx. Time Counter : 10.30}

Mike O'Connor, Executive Director, Public Employees' Retirement System, said he would like to address the section on retirement. The Board has concerns with this bill. The legislature is the policy makers when it comes to public employees' retirements. This bill takes the policy making decision out of the hands of the legislature and puts it into each of the bargaining units. Also, the Board has concerns with the direction this bill would be taking public employees' retirement, regarding individual choice. The natural trend is to offer choices by individual, not by groups of people. **House Bill 79** gives choice on an individual basis. They do not think the decisions should be made by each bargaining unit. The legislature should remain the policy maker.

Questions from Committee Members and Responses:

SEN. WELLS said the opponents pointed out two House bills that give choices to employees. He asked how **SEN. COCCHIARELLA** viewed the idea that they should have an individual choice rather than a group choice. He also asked how her bill gives a better opportunity. **SEN. COCCHIARELLA** explained that under the other two bills, the individual is only choosing what is provided in

those other plans. Under this bill, people will come together to create their own plan. Concerning the issue of retirees, the carpenters changed their plan so the retirees would be covered. This bill provides another option for a certain element of about 347 people, who could be the highest risk people to leave the group, not risk leaving the highest risk people behind. She has had an insurance license and understands how insurance works. Whoever leaves the group could be the highest risk or the lowest risk people. This gives a certain element of employees an option that they do not have now.

SEN. WELLS asked what EIRSSA stands for? **Mr. Driscoll** explained it stands for Employees Income Retirement System Security Act. If someone wants to be in one of the trust funds, they have to comply with federal law. It has to be jointly administered between employees and employers.

SEN. HARGROVE said, as far as he can tell, this bill just provides the opportunity for collective bargaining. He asked Mr. Leavitt if his fears are that too many people will leave their present system and affect the overall liability of the system. **Mr. Leavitt** affirmed these were his fears. He added this does not guarantee that they will have to agree.

SEN. HARGROVE said there is a potential of harming the liability of the other things being offered. The debate two years ago was a big one. The proposal did not happen and this seems to be coming back in a much better form. He said there is a potential of hurting some of the people you're trying to support. He asked **Mr. Holzer** to comment on that. **Mr. Holzer** explained there is always some risk that goes along with that, but in their opinion this legislation simply provides a discussion. A process of negotiations can occur, which is not currently allowed. In terms of potential impact, there are a number of pieces of legislation advocating various types of government privatization. He said that would have a far more negative impact on the PERS than allowing a group of individuals to sit down at a table and see if they can reach some type of compromise.

SEN. TESTER said he wanted some clarification. When he was teaching in the school there were a couple of folks on the health insurance program that had cancer. If they could have dissected that group, they could have had better coverage for the same money. He asked if **Mr. Leavitt** anticipates that sort of thing happening for the same money. **Mr. Leavitt** explained there is always some risk involved. The insurance plan he is covered by in his employment is a relatively small pool and in that small group they have some people with significant health problems. He reiterated there is a degree of risk involved, but this proposal

simply allows for this conversation. **SEN. TESTER** asked if he thinks the benefits outweigh the risk. **Mr. Leavitt** said he absolutely thinks the benefits outweigh the risks.

{Tape : 1; Side : A; Approx. Time Counter : 10.42}

SEN. COLE asked what kind of effect this bill would have on PERS. **Mr. O'Connor** explained this bill provides an obligation to PERS and addresses the unfunded liability. It provides for the employer to pay for that observation; therefore, he does not see this bill having a negative effect on the system.

SEN. HARGROVE asked if Section 2 effects the retirees. **Mr. Schneider** said it does not just effect retirees. It effects individuals within the plan, if they suddenly found that their group negotiated into an EIRSSA plan. Their only choice then would be to take a vestment with PERS. If someone had 25 years old, not 60 years old, and wanted to retire before he was 60 years old, he would receive a 6 percent penalty for every year. The employee would not have received this penalty if he would have been able to continue his employment and continue his retirement the way he thought he was going to continue it. **SEN. HARGROVE** asked if this could be struck without affecting the basic intent of the bill. **Mr. Schneider** said he thinks the 2 sections are independent of each other. He added health insurance could stand alone.

Closing by Sponsor:

SEN. COCCHIARELLA responded to **SEN. HARGROVE'S** last question. She explained that herself and the people who brought this concept prefer that they be able to bargain those issues when they go to the bargaining table. Currently, under the health insurance system, it costs an employee 406 dollars a month to be able to bargain into their Union's pension and health. It costs about 518 dollars a month with co-pays and deductibles to stay in PERS. This bill provides fairness and for some people to be able to negotiate, while protecting PERS. In the section regarding retirement, the language provides for back filling and protecting, making sure there is no unfunded liability as a result of this legislation. It is a package deal. The University System is not always making a concerted effort to complete and finish their bargaining process. The evidence is their current state of affairs in their bargaining with the current university staff. These are not the faculty and administrators who make the big bucks, these are the working people who keep the place running. She urged the committee to pass this bill.

{Tape : 1; Side : A; Approx. Time Counter : 10.46}

HEARING ON SB 457

Sponsor: SEN. VICKI COCCHIARELLA, SD 32, MISSOULA

Proponents: Tom Schneider, MPEA
Jerry Driscoll, Building Trades
Gerry Bantz, AARP
Terry Minow, Montana Federation of Teachers and
State Employees
Darrell Holzer, Montana State AFL-CIO
Kelley Hubbard, Montana Senior Citizens'
Association

Opponents: None.

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA, SD 32, MISSOULA, explained this bill is called pop-up in retirement. She handed out **EXHIBIT (sts39a02)** which shows an example of a pop-up in retirement. She explained it is a very simple concept. She brought this bill to the Interim Committee on Retirement and they endorsed it. She explained they struggled with trying to do this through law. She gave an example of a woman. When she retired she named her husband as the annuitant or beneficiary if she were to die, but he died **before she did**. After 14 years her total benefit was \$190 a month. When he died she could not get an additional benefit for the benefit she had already paid to make sure that he got her retirement if she died first. This is called a pop-up. The person involved in this can choose the pop-up option; therefore, it does not cost anything. She pointed out the Fiscal Note shows no cost. The person who makes that choice of option will pay the costs and this would have given the woman another 30 dollars a month. This woman was receiving 140 dollars a month from Social Security and 190 dollars a month from her retirement. To her 30 dollars would have been a lot. Most systems, especially PERS, only allow the money to go to her kids after she dies. Her kids were advocating for her to be able to have another 30 dollars a month. This bill allows her to choose a pop-up option, which she funds, so if her spouse dies, she can have an increased benefit for the rest of her life. This bill does apply to the other systems as well as PERS.

Proponents' Testimony:

Tom Schneider, Montana Public Employees Association, said he is a full proponent to this bill. He pointed out a correction; this bill does not apply to the other systems because the other systems already have provisions, which are probably better than the one being proposed. This is a problem with any of the retirement systems and we have individually addressed those as they have gone along. This does not have a cost. One of the toughest decisions a person makes when he is about to retire is what to do to cover his spouse and what will the effect of that be if something happens. This bill makes that decision easier.

Jerry Driscoll, Montana State AFL-CIO, explained almost all private pension funds do this when you retire. When you retire you must provide your spouse with 100 percent spouse option or the spouse must sign an affidavit agreeing to less. If you choose the 100 percent spouse option, your benefit is reduced because of the risk your spouse will live longer than you. If your spouse does not live longer than you, there is no more risk to the pension fund, so you should go back up to your benefit level.

Gerry Bantz, AARP, said she is a retired teacher. She does not have the pop-up option because she retired too long ago, but this bill would have a good effect on anyone who will be put into the situation she was. Her husband died before her and now she has to take the smaller option, which she had taken at the time. This is a good bill and she urged the committee's support.

Terry Minow, Montana Federation of Teachers (MFT), Montana Federation of State Employees (MFSE), they support this bill and thank the sponsor for bringing it to the committee's attention. This is a fair bill, a necessary bill, and an important bill for people who are effected by this unfortunate situation and they ask that the committee pass this bill.

Mike O'Connor, Executive Director, Public Employees Retirement System (PERS), said this is a good bill. It covers the PERS, the Judges, the Sheriffs, and the Game Warden systems. The other safety systems already have provisions for spouse or beneficiaries. He passed out **EXHIBIT (sts39a03)** showing what would happen in an individual case. This example is the average retiree, age 60 with 18.5 years of service. There are 3 options under PERS. Option 1 is for the member's life only, option 2 is for the member's life and the contingent annuitant's life, option 3 is for the member's life and if the member dies, the contingent annuitant would receive half of what the member was receiving. He read the **EXHIBIT (3)**. If the member's contingent annuitant passes away before the member does, they would pop-back up to

option 1 and start receiving what the member received. He urged the committee's support.

Darrell Holzer, Montana State AFL-CIO, said they concur with all of the comments made by the other proponents. They support this bill as well.

Kelly Hubbert, Montana Senior Citizens' Association, stated this is clearly a senior citizen's issue and they support this legislation.

Questions from Committee Members and Responses:

SEN. HARGROVE asked if there would be any effect on rates, payments, or contributions, because of this small potential impact. **Mr. O'Connor** said the benefit paid out would be adjusted slightly. The rates or contributions are not affected by this.

SEN. COLE asked if this was balanced out so they will all come out the same. **Mr. O'Connor** explained they had an actuary look at this in order to make sure there would not be an effect on the system. The Fiscal Note has no cost to it.

Closing by Sponsor:

SEN. COCCHIARELLA explained that she was sorry that this bill is not retroactive to take of the woman's example that she brought to the committee. She urged the committee to pass this bill. She doesn't think they intended to cause those types of hardships.

{Tape : 1; Side : B; Approx. Time Counter : 11:00}

HEARING ON SB 455

Sponsor: **SEN. JON TESTER, SD 45, BIG SANDY**

Proponents: None.

Opponents: None.

Opening Statement by Sponsor:

SEN. JON TESTER, SD 45, BIG SANDY, said if a candidate knowingly misrepresents his or her own voting record, this bill makes it an offense that is punishable.

Questions from Committee Members and Responses:

SEN. WELLS asked if the negligent aspect of this bill was discussed with legal council. **SEN. TESTER** answered he brought this bill to **Linda Valloy, Legal Council**, and she said if a person does not willfully misrepresent his or her own voting record, there could be no penalty.

SEN. HARGROVE said Line 26 says it is unlawful to willfully or negligently. **SEN. TESTER** explained if negligently is not specific enough, it could be removed and something more specific put in there. The bottom line is it has to be a willful act before it is punishable.

SEN. WELLS said Line 6 says failure of a person to verify his or her voting record is evidence of a person's willful or negligent conduct. He asked if that takes care of the idea of this being negligent. **SEN. TESTER** explained that it further defines the word negligent. The person must verify the documentation, which depends on the forum. Sometimes candidates do not have an opportunity to verify information, perhaps on radio when someone calls in to ask a question. On the other hand, if a candidate is doing a mail-out and false information is put into the mailing, there would need to be some proof of verification. **SEN. WELLS** asked if there was another provision in law that addresses someone else putting out a mailing that would falsify a candidate's voting record, that the candidate should scrutinize and verify first. **SEN. TESTER** said the first part of this is the same as **SB 292**, which states that it is unlawful for a person. **SEN. WELLS** asked if someone violated Section 1, would Section 2 be a possible violation to the candidate for not reviewing what the other people did in Section 1. **SEN. TESTER** said the intent was to take care of the candidate's actions with the candidate's own voting record. He said he believes that the other person is taken care of in statute. If another person was misrepresenting his voting record, the statute gives him plenty of latitude to go after that person. **SEN. WELLS** explained his point was not that the other person was trying to discredit the candidate; the person was trying to falsify the candidate's voting record to make the candidate look better and the candidate does not verify that. **SEN. TESTER** said he thinks that it is already covered in statute. **SEN. WELLS** stated they could get the other person for falsifying the candidate's voting record, but wants to know if they could get the candidate. **SEN. TESTER** explained if a candidate puts a disclaimer on that person's ads, the candidate would be in trouble. If no disclaimer is put on the ad, the candidate would not be in trouble.

Closing by Sponsor:

SEN. TESTER closed.

{Tape : 1; Side : B; Approx. Time Counter : 11.10}

DISCUSSION

SEN. HARGROVE explained **SEN. ALVIN ELLIS, SD 12, RED LODGE**, has another school election bill. **SEN. HARGROVE** was first interested in it because of the western states' primary. He's not sure where to go with his bill, but no matter what happens, sometime six weeks from now there will be some conference committees depending on what happens to **CI-75**. **SEN. ELLIS's** bill is going to do the same thing as they were going to do in **HB 490** with the western states's primary by piggy backing a couple of elections together. **SEN. ELLIS's** bill would do this twice in 4 years, while **HB 490** would only do this once in 4 years. He thinks **SEN. ELLIS's** will save more money than his bill, in the long run. He added there would be a Fiscal Note on **SEN. ELLIS's** bill indicating that savings. He suggested that they hold off and see what happens to **CI-75**. He asked **David Niss** to comment on whether to let the **HB 490** go through or wait. **David Niss** explained the only change that would be made to **Senate Bill 228** is if **HB 490** is passed in a group. More discussion followed. The March date would effect **SB 228**. They decided to leave **HB 460** and **HB 490** untied and let the system settle it. If both bills passed there would be a conflict; therefore, an amendment was prepared. If the school election is moved out of **HB 490** back to **HB 460** and western states' primary is held by itself, there is no conflict, but there is a more expensive election. On the other hand, the money is saved in **HB 460** because elections would be held on the same date twice every 4 years instead once every 4 years.

Angela Fultz, Chief Deputy, Secretary of State, said there would be a cost savings between **HB 460** and **HB 490**, but she is not sure how **SB 228**, with tax elections, would play into that.

SEN. HARGROVE explained **SEN. ELLIS** has a bill to combine the school trustee election and school levy election with the primaries. Under initiative **CI-75** that won't work, but it's a non **CI-75** bill. The western states' primary would combine the school trustee election with it, but on a different date. One election is held once every four years and the other is held once every 2 years. Those are the only non **CI-75** bills. The conflict is they are both using the same school elections to save money. There will probably have to be a conference committee. **SEN.**

BARRY STANG, SD 36, ST REGIS, has a **CI -75** elections bill on taxes.

Angela Fultz, stated that **SEN. STANG's** bill is basically a mirror of **SEN. ELLIS's** bill. It moves the school elections to June also, but it has a contingency provision. The only other difference is that **SEN. ELLIS's** bill states only 1 school election and 1 levy election per year.

{Tape : 1; Side : B; Approx. Time Counter : 11.24}

EXECUTIVE ACTION ON SB 228

Discussion:

David Niss, Legislative Council, handed out amendments to **SB 228 EXHIBIT (sts39a04)**. He explained the difference between this set of amendments and the previous set of amendments. The section that was not included in **SB 228** and should have been, is now included in Paragraph 11 of the amendments. The amendments also coordinate the changes in school election date made in **SB 228** with **HB 490** in Paragraph 14. In Paragraph 14, Sub-Section 2, the amendment says if both bills pass, **HB 490** rules. The Department of Revenue had another issue they wanted to address and he convinced them this was not the vehicle to use for that.

SEN. TESTER said if they are talking about saving money, why don't they set all of the school election dates in May on the tax election date.

They discussed the possibility of having the presidential primary stand by itself every 4 years. Otherwise they will have a trustee election that is all by itself.

Angela Fultz said she thinks that would work. One of the things they will hear about the presidential preference primary is the long term vision of that. Once they plan to get it set up into 4 regions, which probably will be in 2008, they will rotate, putting the presidential preference primary on a date all by itself.

Mr. Niss explained the amendments the committee is considering set the tax elections and the general school elections for the first Tuesday after the first Monday in May. The presidential election is addressed in the coordination instruction and it makes **HB 490** control on the date of the school elections if **HB 490** passes.

If these amendments are passed out of committee, assuming they strike the section in **SB 490** on trustee elections, then all trustee elections will be held on the tax election date.

Motion/Vote: **SEN. TESTER** moved that **SB 228 BE AMENDED. Motion carried 5-0.**

Motion: **SEN. TESTER** moved that **SB 228 DO PASS AS AMENDED.**

Discussion:

SEN. WELLS asked which paragraph puts the tax election in May.

Mr. Niss explained the purpose of the amendments is to strike March and puts May in.

SEN. TESTER asked if they should have made this bill the controlling bill, which would force **HB 490** to move those dates.

SEN. HARGROVE explained this bill has a contingency provision, pending the outcome of **CI-75**.

SEN. TESTER said Paragraph 10 of the amendments says by the first Monday in May, the Department of Revenue will certify the taxing authority. When we had discussions with the Department of Revenue, those certifications would be done in the first half of March. If they are certified by the first of May, they cannot have that election when the committee wants to have it. That has to be done 45 or 60 days ahead of time. They have been give the authority to use last year's certification on the centrally assessed properties, but not on the other. He asked if the date could be changed for the fifth of March for certified values. In order for the school districts to run their mill levy elections to the dollar, they had to have this 35 or 45 days ahead of time.

Dolores Cooney, District 3 Leader of Valuation and Resolution Compliance, Department of Revenue, explained the school district has to have their language 35 days before the election date. The time it takes to do the assessments and the certified mill moving it to the first March deadline could not be done.

SEN. TESTER said he understands it could not be done for this year, but asked if the bill addresses property valuation to be certified for the first part of March in the year 2000.

Mr. Niss stated it does not. It applies the May date for every tax year.

SEN. TESTER said if the certified values are on the first Monday in May, they could not have this election on the first Tuesday in May. For the year 2000 the values must be due the first half of March.

Dolores Cooney said that would give the Department of Revenue the time to certify the mill.

Angela Fultz stated if the numbers are not received until March 15, then absentee ballots would not be available 45 days before the election date, unless the absentee ballots for the tax election will be available for different times. For statewide elections, federal law says it has to be 45 days in advance. Current law does not require school elections to be that far in advance.

Discussion continued about the date the certifications should be due in order to determine mill levies, meet the deadline for printing, and meet the deadline for absentee ballots. They decided the valuations would have to be done by March 1st.

Dolores Cooney would bring this date to Director of Revenues and get back to the committee on the feasibility of this date. The two sections that establish the valuation date are contingent upon **SB 312** not passing because the same change is in **SB 312**. Therefore, if **SB 312** does not pass the language would stay in **SB 228**. If the May date is moved back, the same change must be made in **SB 312**. The use of the previous year's values in the amendments only applies to centrally assessed property. For the transition period, this year, it was suggested that the previous year's values should be used on all property values. The single election for this year could not be held in November and meet the needs of all interested parties because each party may have a different fiscal year. If the fiscal year began on July first, they would not have the funding for that year if they voted in November. If last year's certified values were used for this year, they would have to use the 1998 values for 1999 tax purposes, because they cannot certify with one set and tax with another set. Even though they would be using 2000 certifications in the year 2000 except for the centrally assessed property, because the certification date will be effective in March of 2000. They would be taxed on the 1999 certification for the centrally assessed properties. They would always be a year behind on the centrally assessed properties because they would always be based on the previous year's valuation. It must be coordinated with **SB 312** as the changes made, to have all valuations based on the previous year for the transition period in 1999, because as **SB 228** does not become effective if **SB 312** passes. They could make the changes in this bill and pull out

the identical language in **SB 312**. Then they could strike the contingent provision in **SB 228**.

{Tape : 2; Side : A; Approx. Time Counter : 11.57}

Motion/Vote: SEN. TESTER moved to RECONSIDER SB 312. Motion carried 4-0. SENATOR WILSON was absent for the vote.

Discussion:

Currently, under the contingent provision in **SB 228**, if **SB 312** is not passed and approved then the amendments presented in **SB 228** control. The only challenge they would have is if 10 days or 1 week is long enough, once the certifications are given to the school districts, to get their mill levies into the election.

ADJOURNMENT

Adjournment: 12:03 P.M.

SEN. MACK COLE, Chairman

KERI BURKHARDT, Secretary

MC/KB

EXHIBIT (sts39aad)